

# ASSOCIATED BEHAVIOR CONSULTANTS, INC.

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DISTRICT COURT

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WASHINGTON COUNTY

BY DM

## CONFIDENTIAL

### REPORT OF A COMPETENCE TO PROCEED EVALUATION

Name: Warren Jeffs  
Case No. 061500526  
Age: 51  
DOB: 12/3/55  
Sex: Male  
Date Order Received: April 6, 2007  
Date of Evaluation: April 10, 2007  
Date of Report: April 18, 2007  
Examiner: Eric Nielsen, D.S.W.  
Charges: Rape as an accomplice, First Degree Felony, two counts

Scanned 30 Oct 07  
Remains sealed  
061500526 until  
hearing of  
6 Nov 07  
30 Oct 07  
E.A.

**Referral:** This man was referred by the Honorable James L. Shumate of the Fifth Judicial District Court in Washington County for an evaluation to assist the court in determining his competence to proceed. The evaluation was conducted pursuant to Utah Code Annotated Section 77-15-1 et seq.

#### Conclusions:

##### 1. Does this man suffer with a substantial mental illness?

Yes. Although he is guarded and careful about providing information, this appears to be a general suspiciousness that may have developed as a result of his lifestyle. At the point he was examined, he did not appear to be paranoid but was careful about what information he was willing to reveal.

He came across as mildly depressed and there is ample evidence in the chart that he has been struggling with symptoms of depression coupled with anxiety. This is best described as an agitated depression. This culminated in a suicide gesture. It is the examiner's opinion he was previously catatonic. This is illustrated by the fact he has spent several hours on his knees praying. Consequently, he developed ulcers on both knees. During these times he was uncommunicative. It appears he is capable of communicating but chooses not to. At the point he was examined, these symptoms were in remission. It is the examiner's opinion the most appropriate diagnosis is Depressive Disorder, NOS which includes significant features of agitation and depression. His

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current functioning shows mild slowness of speech but it is difficult to discern whether this was due to labored thinking common with depression or what seems more likely, a guarded and cautious response to questions. In the past he has shown significant delays of several minutes between questions and answers. During this evaluation the delay was only a few seconds. At this point it appears that his depressive symptoms have largely gone into remission. He seems to have little insight into his condition tending to view his difficulties as simply the result of being somewhat anxious. He does not want to take medication and has discontinued medication. It is certainly possible that he could have a relapse. However, at the point he was examined, he appeared to be rational, logical, and understood his situation.

**2. Does he comprehend and appreciate the allegations against him?**

Yes. He understood that he had two charges of being an accomplice to rape. However, he was unwilling to discuss any of the particulars that have led up to his current arrest. His current functioning is such that it is unlikely that he could not share information about his case with his attorneys.

**3. Can he disclose to counsel pertinent facts, events and states of mind?**

Yes. He was capable of sharing some information with this examiner. As mentioned in the text of the report, he was cautious about sharing specifics about family life such as the number of siblings and details of his immediate family. He also was reluctant to discuss anything that he perceived to be related to the case. Defense counsel has not suggested he has been unwilling to share specific information with them.

**4. Does he comprehend and appreciate the range of possible penalties that could be imposed?**

Yes. In a general sense he understands he could be incarcerated. He understands the court has other sentencing options available to them.

**5. Can he engage in a reasoned choice of legal strategies and options?**

Yes. He is capable of weighing alternatives. When hypothetical examples were provided to him, he was generally capable of exercising reasonable judgement and evaluating them.

**6. Does he understand the adversary nature of the proceedings against him?**

Yes. He understands the prosecutor will attempt to obtain a conviction.

**7. Can he manifest appropriate courtroom behavior?**

Yes. He is unlikely to be disruptive. He made one attempt to communicate directly to the judge but during this evaluation noted "I have learned that I can't do that." He recognizes he must communicate with the court through his attorney.

**8. Can he testify relevantly if applicable?**

Yes. He was responsive to questions. As mentioned, he was unwilling to discuss certain aspects of his life but it appears he is capable of doing so if he chooses.

**9. What is the impact of his mental disorder on his relationship with counsel?**

None. He is willing to work with his attorneys and expressed no delusional beliefs about them.

**10. What psychoactive medication is currently being administered?**

At the point he was examined he was on no medication. Prior to the evaluation, he had been on doses of mild tranquilizers including Ativan and Klonopin. He had also been receiving Lexapro, which is an antidepressant.

It is the examiner's opinion this man is competent to proceed at this time. However, he may suffer a relapse as he is not taking medication which would be prophylactic for him.

**Nature of the Evaluation:** The evaluation was conducted at Purgatory Correctional Facility on April 10, 2007. Prior to beginning the evaluation, he was informed of the limits of confidentiality. It was specifically explained to him that a written report would go to officers of the court and that the report could only be used to determine his competence. He understood this warning and could remember the elements of this warning after about a 30-minute delay. He was subsequently interviewed, a social history was obtained, and a mental status examination was conducted. A MacArthur Competency Assessment Tool for Criminal Adjudication was administered. Staff at the Purgatory Facility were consulted, specifically mental health staff. Records were reviewed which included records from the Washington County Jail to include patient notes and clinical social work notes. Charging documents and amended information reports were also reviewed. Contacts were made with his attorneys.

**Description:** Mr. Jeffs is a white male. He was clean shaven and his grooming was good. He appeared to be a tall, thin man. His weight on the day of the evaluation was 136 pounds, which was approximately six pounds more than he weighed two weeks previously.

**Brief History:** The following history was obtained from Mr. Jeffs. He was cooperative in sharing some details of his life but declined to provide any information about his extended family.

He described that he was born in Sacramento, California but raised in the Salt Lake Valley from the age of about six months. He described both parents as "wonderful." He refused to describe the number of siblings in his family.

He said he struggled in school until about the 6<sup>th</sup> grade. He denied he had any learning problems simply stating "I'd rather be home." He said he graduated from Jordan High School with grades ranging between A and B. After graduating from high school, he worked for his father and indicated he also taught school in a private religious school for about 25 years.

He denied he had ever used alcohol or any illegal drugs.

He stated he has no memory of ever having a concussion and he has never had any seizures or other neurological problems.

He stated he was married but refused to talk about this aspect of his life.

He said his health was generally adequate at this point. He described a prior surgery for a hernia repair about 16 years ago. At the point he was examined, he was on no medication.

From what the examiner could discern, he has never been treated for any mental or emotional disorder before he came to the Purgatory Correctional Facility.

**Interview Behavior and Mental Status:** He was oriented to person, place, and time and understood the purpose of the evaluation. He was somewhat cooperative with the evaluation procedures although he balked about describing information about his family and also refused to talk about any of the facts related to the case. This refusal appeared to be elective as opposed to a product of any mental disorder.

He presented in a somewhat guarded fashion. Initially he was reluctant to answer some questions and told the examiner that much of the information could be gathered from the records as if he were hoping to defer discussing certain aspects of his life. When asked about his mood, he said "I'm encouraged. I'm always reaching and praying." During the course of the evaluation his affect was more subdued although he occasionally smiled. There was often a delay between a question and his response. When pressed about this delay, he said "I'm just thinking about what I talked to my lawyer about." He did not appear to be responding to internal stimuli. Rather, he appeared to be assessing whether it was information that he should share.

His general fund of information appeared to be good. He had a good grasp of common sense information. For instance, he understood that cars needed to slow down near a school zone to ensure the safety of the children and that nurses needed to pass a test in order to ensure that they were competent.

He could provide his Social Security number forwards and backwards with no errors. He performed serial 7's with no errors. He could spell five letter words backwards with no errors and make change in his head. He smiled during this portion of the evaluation. He had a good ability to identify similarities and differences and had a good ability to interpret proverbs. His immediate recall was relatively good. He could remember nine digits forward and five digits backwards. He was capable of remembering three separate items after a 15-minute delay.

He denied auditory or visual hallucinations but did add that he sometimes has impressions and that he believes in inspiration. He denied that he has any unusual capabilities or powers stating "I don't consider myself special." He was questioned about information received before the evaluation, specifically the fact he had attempted suicide and been despondent. After a long pause he said "I'll let you read the reports." When pressed as to whether he was actually intending to kill himself, he said "not really." When asked what was going on for him at the time, he said "I'll say I'm feeling a lot better and encouraged. I'm doing better." When asked why this was the case, he said "prayer and study."

Records from the mental health staff working with him at the jail indicate he had told them he was anxiety ridden and that this triggered the suicide attempt.

He described his appetite as "I've been eating regularly the last few days. Before that I was fasting off and on." At the examiner's request, he was weighed. He weighed 136 pounds. He had been weighed approximately two weeks before and weighed 130 pounds. This would suggest he has been eating regularly and gaining weight. He denied any gastrointestinal problems. He complained he had been in the holding area next to the booking desk since January and that it was difficult to sleep there because there was a great deal of activity and the lights were always on. (He is in the cell because of suicide watch).

He was questioned about his response to medication. He said he could see no positive effect of the Ativan or Klonopin. He added that he had taken an antidepressant for a while but was unsure how long stating "when I found out I didn't have to take it I stopped." He added "I didn't feel like I needed it."

He was questioned about anxiety and he stated "I always feel anticipation and anxiousness." However, he did not endorse a large number of current anxiety linked symptoms apart from feeling

worried.

Throughout the evaluation his affect was generally subdued. He was quite guarded about what information he would share although this did not appear to be the result of any delusional belief. He frequently deferred questions to "the records."

The examiner attempted to elicit his cooperation in completing psychological testing including a Multiscore Depression Inventory and a Millon Clinical Multiaxial Inventory-III. He examined both of the tests, particularly looking at the items on the Multiscore Depression Inventory (this is a 110 item test that measures symptoms of depression). He refused to take the test. When asked the reason, he said "I don't want to." He made comments to the effect that his attorneys had told him he did not have to do things he did not want to do.

**Record Review:** At the point he was examined, he was in a suicide watch situation in a cell adjacent to the booking area. A review of the records show that when he was booked into jail in 2006, he was oriented and showed no clear symptoms of mental illness. The jail records show there have been long periods where he has been observed kneeling and praying so much so that he developed ulcers on his knees. There have been periods where he has spent several hours on his knees without adjusting his position. He also had been refusing food and liquid during this period. This behavioral pattern was in place throughout the month of January. On January 28, 2007, he attempted to hang himself in his cell. He was interviewed the following day and his mood was described as somber and dull. He has complained that he was feeling anxious. He was placed on suicide watch and psychiatric consultants were brought in from Dixie Regional Medical Center as well as Southwest Mental Health. On January 30, 2007, he was throwing himself against the walls and was administered Ativan to calm him. On February 2, 2007, he was banging his head on the wall. He denied any hallucinations at that time but simply described himself as anxious. He has complained of some nausea and was given Phenergan. Dr. Seager recommended giving anxiolytics in the form of Ativan on January 30, 2007. He had interviewed Mr. Jeffs and determined that the suicide was a "cry for help." He also noted he was experiencing elective mutism as a sign of catatonia. Over time the Ativan was discontinued in favor of Klonopin, which is a longer acting mild tranquilizer and he was prescribed Lexapro, which is an antidepressant. By February 13, 2007, he was described as much improved, particularly noting his mood was better. The defendant discontinued medications for about a five-day period during the end of February but was encouraged to start the medications again March 7, 2007. However, by the time the examiner saw him on April 10, 2007, he had discontinued all medication. From what the examiner could discern, he had been off medication for approximately one week.

**Collateral Contacts With Defense Counsel:** Both attorneys, Mr. Wright and Mr. Bugden, indicated that on January 27, 2007 he was in court and did not seem to understand what had

transpired. They further noted his functioning had begun to deteriorate for a month prior and had not seemed himself. They noted that when they first began to represent him he was on task and even more optimistic and upbeat; however, since that time he had slowly deteriorated. Mr. Wright saw him the day before the examiner met with him (April 9, 2007). He indicated at that time the defendant was doing much better but even then had a hard time remembering some aspects of a conversation they had on the Friday prior.

From information obtained from both attorneys as well as information from jail records, it appears likely that during the period surrounding January 27, 2007, he was not functioning well and was likely in a depressed, catatonic state. He has periodically complained of anxiety. Those who have observed him have noted he appeared to be depressed. During this period he began to pray and go on episodes of fasting and praying. It appears that he has been depressed, experiencing a high degree of anxiety and catatonia at times. All of this likely contributed to the symptoms noted by his attorneys.

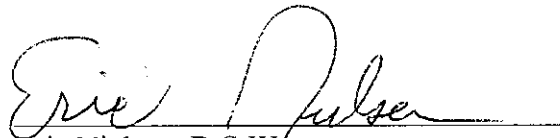
**Collateral Contact With Jail Staff:** In addition to the records, the examiner spoke with Jon Worlton, L.C.S.W. He provided additional information noting that in fact there has been a deterioration in Mr. Jeff's functioning, that he had made a significant suicide attempt, and then subsequently had been agitated. He noted that once anxiolytic medication was begun, his symptoms began to abate rather rapidly and that more recently he had been communicating and eating on a regular basis. He also confirmed that he has discontinued medication at this point.

**Legal Situation:** Information obtained from counsel suggested that on January 27, 2007 he appeared to be mildly stuporous and did not understand what had transpired in the hearing. His attorneys noted there had been a general deterioration in his mental functioning prior to this hearing. This served as the basis for the request for competency evaluation.

At the point he was examined, he understood he was charged with an accomplice to rape, two counts. He recognized that these were felony offenses. He had a basic understanding of the roles of the prosecutor and defense attorney. He recognized that his defense attorneys would represent him and that he needed to provide relevant and useful information in order for them to accomplish this task. He recognized a prosecutor will attempt to obtain a conviction and he understood that a judge was the ultimate authority stating that a judge would "see that the law is fulfilled" and he noted that the judge was impartial and could impose a sentence if there was a conviction. He understood the court had various sentencing options including fines, probation, and incarceration. He recognized that if convicted of his particular charges, incarceration could consist of several years in prison. He had a basic understanding of legal concepts to include pleas of guilty and not guilty and plea bargains. Throughout the evaluation, he clearly recognized that he was in significant jeopardy of being incarcerated for an extended period of time.

He likes his attorneys and is willing to work with them.

He was unwilling to talk about any of the facts of his case or how he might consider managing his case. In fact, he was so cautious about this that at times he was guarded about even answering hypothetical questions that had nothing to do with his case. This response style did not appear to be due to a pervasive sense of paranoia but rather cautiousness and he reports that he is willing to discuss such matters with his attorneys. At times during the administration of the MacArthur Competency Assessment Tool for Criminal Adjudication, he judged certain hypothetical questions as too close to his own situation and refused to answer them. As a consequence, the MacArthur could not be scored. He specifically refused to talk about any of the facts of his case. At times he refused to answer certain hypothetical questions in the MacArthur Competency Assessment Tool for Criminal Adjudication. For instance, when asked the questions "Compared to other people who are charged with the same offense you are, do you think you are more likely, less likely, or just as likely to be found guilty?" he refused. As a consequence, the MacArthur could not be scored but was used more as a tool to guide the interview. Generally, his performance on the instrument shows an adequate understanding and an adequate appreciation of his situation but he was unwilling to discuss any of the facts of his case. However, this appears to be volitional and not the product of a mental illness.

  
Eric Nielsen, D.S.W.